

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HARBINGER CAPITAL PARTNERS MASTER FUND I, LTD.; AURELIUS CAPITAL MASTER, LTD.; AURELIUS CAPITAL PARTNERS, LP; ARROW DISTRESSED SECURITIES FUND; SCHULTZE MASTER FUND, LTD.; LATIGO MASTER FUND, LTD.; UBS WILLOW FUND, LLC; MISSOURI STATE EMPLOYEES' RETIREMENT SYSTEM; BLACKROCK GLOBAL FLOATING RATE INCOME TRUST; BLACKROCK LIMITED DURATION INCOME TRUST; BLACKROCK SENIOR INCOME SERIES; BLACKROCK SENIOR INCOME SERIES II; BLACKROCK SENIOR INCOME SERIES III PLC; MAGNETITE V CLO, LIMITED; BLACKROCK SENIOR LOAN PORTFOLIO; HARCH CLO II, LTD.; and RZB FINANCE LLC,

07-CV-08139 (DC)

Doc. No.

Related to Doc. Nos. 26 and 31

Plaintiffs,

-against-

WACHOVIA CAPITAL MARKETS, LLC d/b/a WACHOVIA SECURITIES; BDO SEIDMAN, LLP; GREGORY J. PODLUCKY; and ROBERT LYNN,

Defendants.

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**JOINDER OF DEFENDANT GREGORY J. PODLUCKY TO  
DEFENDANT BDO SEIDMAN'S MOTION TO DISMISS AND  
DEFENDANT WACHOVIA CAPITAL MARKETS, LLC'S MOTION TO DISMISS**

AND NOW, comes the Defendant, Gregory J. Podlucky, by and through his attorneys, Robert O Lampl and John P. Lacher, and files this **JOINDER TO DEFENDANT BDO SEIDMAN'S MOTION TO DISMISS AND DEFENDANT WACHOVIA CAPITAL MARKETS, LLC'S MOTION TO DISMISS** as follows:

Plaintiffs brought this action asserting Federal Court jurisdiction pursuant to 18 U.S.C. §1962(d), the Racketeer Influenced and Corrupt Organizations Act ("RICO") and

raising pendent State Law claims for fraud, aiding and abetting fraud, negligent misrepresentations and civil conspiracy.. Defendants BDO Seidman and Wachovia Capital Markets, LLC were granted leave of this Honorable Court to file targeted Motions to Dismiss under F.R.Civ.P. 12(b)(6), asserting that the RICO action is not ripe, as the Plaintiffs have not exhausted their potential remedies and recoveries in cases pending in other jurisdictions. BDO Seidman and Wachovia Capital Markets, LLC have filed said Motions.

Defendant Gregory J. Podlucky hereby joins in the request for relief set forth in said Motions that the Plaintiffs' Complaint be dismissed on the standing and jurisdictional grounds set forth in those Motions.

While Defendant Gregory J. Podlucky adopts the legal arguments set forth therein, Defendant Gregory J. Podlucky specifically does not adopt the factual averments set forth therein as they relate to any allegations of misconduct, illegality or impropriety as may be directed to him, and this Joinder should not be construed by any party as an admission or acknowledgement of any fault, act, omission or liability as may have been asserted as to Gregory J. Podlucky by any party to this action.

Date: November 26, 2007

Respectfully submitted,

/s/ Robert O Lampl  
Robert O Lampl, Pro Hac Vice  
Pa. I.D. #19809

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Attorneys for Defendant Gregory J.  
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**HARBINGER CAPITAL PARTNERS MASTER FUND I, LTD.; AURELIUS CAPITAL MASTER, LTD.; AURELIUS CAPITAL PARTNERS, LP; ARROW DISTRESSED SECURITIES FUND; SCHULTZE MASTER FUND, LTD.; LATIGO MASTER FUND, LTD.; UBS WILLOW FUND, LLC; MISSOURI STATE EMPLOYEES' RETIREMENT SYSTEM; BLACKROCK GLOBAL FLOATING RATE INCOME TRUST; BLACKROCK LIMITED DURATION INCOME TRUST; BLACKROCK SENIOR INCOME SERIES; BLACKROCK SENIOR INCOME SERIES II; BLACKROCK SENIOR INCOME SERIES III PLC; MAGNETITE V CLO, LIMITED; BLACKROCK SENIOR LOAN PORTFOLIO; HARCH CLO II, LTD.; and RZB FINANCE LLC,**

**07-CV-08139 (DC)**

**Plaintiffs,**

**-against-**

**WACHOVIA CAPITAL MARKETS, LLC d/b/a WACHOVIA SECURITIES; BDO SEIDMAN, LLP; GREGORY J. PODLUCKY; and ROBERT LYNN,**

**Defendants.**

**CERTIFICATE OF SERVICE**

I, Robert O Lampl, hereby certify, that on the 26<sup>th</sup> day of November, 2007, I served a true and correct copy of the foregoing **Joinder of Defendant Gregory J. Podlucky to Defendant BDO Seidman's Motion to Dismiss and Defendant Wachovia Capital Market, LLC's Motion to Dismiss**, upon the following (via first-class mail or electronic service):

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/s/ Robert O Lampl  
Robert O Lampl, Pro Hac Vice  
Attorney for Gregory J. Podlucky